

The Evening Telegraph

BY GEORGE BERGNER

HARRISBURG, PA., WEDNESDAY EVENING, FEBRUARY 17, 1864.

PRICE TWO CENTS.

Pennsylvania Legislature.

REPORTED EXPRESSLY FOR THE TELEGRAPH.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 16, 1864.

The SPEAKER pro tem. laid before the House the following communication from the Governor and Auditor General:

COMMUNICATION FROM GOVERNOR AND AUDITOR GENERAL RELATIVE TO LAND SCRIP.

The SPEAKER pro tem. laid before the House the following communication from the Governor and Auditor General:

HARRISBURG, February 15, 1864.

HON. HENRY C. JOHNSON,

Speaker of the House of Representatives:

In answer to the resolution of the House of Representatives of the 10th inst., requesting the commissioners appointed by the act, entitled "An act to accept the grant of public lands by the United States to the several States, for the endowment of Agricultural Colleges," approved the 1st day of April, 1863, to communicate to the House what rules and regulations, if any, have been made by them respecting the manner in which the Surveyor General shall dispose of said land, and whether any measures have been taken to sell said land scrip," the undersigned, members of said Board of Commissioners, referred to in said resolution, respectfully beg leave to report,

That the Board have had several informal meetings in relation to the sale of the land scrip referred to, but have, as yet, made no rules or regulations respecting the manner in which the Surveyor General shall dispose of the same, nor have any measures been taken to sell the same.

Respectfully, &c.,

A. G. CURTIN, Governor.

ISAAC SLENKER, Auditor General.

Laid on the table.

PETITIONS PRESENTED.

Mr. NELSON, on leave given, presented eleven petitions from citizens of the township of Salem, county of Wayne, asking for the passage of a law to enable them to raise bounty for volunteers.

BILLS CONSIDERED ON MOTION.

Mr. NELSON, on leave given, read in place an act to authorize and enable the township of Salem, in the county of Wayne, to levy and collect a tax to pay bounty to volunteers.

On motion of Mr. NELSON, the orders were suspended and the House proceeded to the consideration of the bill, which was read and agreed to.

The rolls being suspended, the bill was read a third time, and passed finally.

On leave given.

Mr. GRABER read in place an act providing for the payment of bounties to volunteers in Schuylkill county.

On motion of Mr. GRABER, the orders were suspended, and the House proceeded to the consideration of the bill, which was read and agreed to.

Mr. GRABER, Mr. Speaker, I will explain with regard to this matter for the information of the gentleman who has written to me. I have conversed with a number of tax-payers in Schuylkill county, and they all seemed in favor of a bounty with the exception of a few land-owners, who thought the tax would be thereby made too high.

Although our committee have agreed to pay two hundred and fifty dollars to each man, we could not fill our quota before the draft, if one was enforced in our county. We ask that we be allowed to pay also to these men one hundred and fifty dollars in addition; it would help them to procure substitutes.

That is the only thing which the gentleman objects, I suppose. If anybody can see anything wrong, I am willing to be postponed. If we are willing in Schuylkill county, I do not see what objection people outside of it can have.

The SPEAKER pro tem. I would state to the House that I have also received a letter from a gentleman in Schuylkill county, objecting to the bill, as the gentleman from Lebanon has said.

Mr. COCHRAN (Philadelphia). It appears to me that that section will make the bounty in that county unequal. Now, suppose a man is drafted and he receives one hundred and fifty dollars as bounty, or for the purpose of compensating some person else to go in his place; there are persons coming from that county who may get one hundred and fifty dollars bounty, and another one hundred and fifty dollars for substitution. In that respect, it will be unequal.

The SPEAKER pro tem. The Speaker agrees that the bill might as well be over. It will interfere with our private calendar, as it may cause some debate.

The bill was then laid over.

Mr. GLASS. I move that the orders of the day be postponed in order to enable the House to proceed to the consideration of an act providing for the payment of a bounty to volunteers.

The orders of the day being called, the motion was withdrawn.

Agreeably to order.

The House proceeded to the consideration of bills on the private calendar.

The following named bills were read the first time and laid over for a second reading:

House bill No. 122, an act to attach Erie county to the Western district of the Supreme Court.

commissioners of Perry county to appropriate a certain sum of money for making a mountain road in said county.

House bill No. 127, an act to increase the compensation of the county commissioners of Franklin county.

House bill No. 128, an act to increase the compensation of the directors of the poor and house of employment in the county of Franklin.

Amended by Mr. SHARPE, by striking out the word "December," and substituting "November."

House bill No. 129, a supplement to the act of the 8th day of May, A. D. 1857, authorizing the erection of a poor house by the township of Jenkins, the borough of Pittston and the township of Pittston in the county of Luzerne.

Amended by Mr. SHARPE, by striking out the word "December," and substituting "November."

House bill No. 130, a supplement to the act of the 8th day of May, A. D. 1857, authorizing the erection of a poor house by the township of Jenkins, the borough of Pittston and the township of Pittston in the county of Luzerne.

Amended by Mr. SHARPE, by striking out the word "December," and substituting "November."

House bill No. 131, an act to amend the act of the 8th day of May, A. D. 1857, authorizing the erection of a poor house by the township of Jenkins, the borough of Pittston and the township of Pittston in the county of Luzerne.

Amended by Mr. SHARPE, by striking out the word "December," and substituting "November."

House bill No. 132, an act relating to the collecting of district and township debts in Luzerne county.

House bill No. 134, an act to compel the Erie canal company to construct and keep in repair the bridges made necessary by the construction of their canal.

House bill No. 135, an act to repeal certain portions of the ninth section of an act to provide for the regulation and inspection of buildings in the city of Philadelphia, approved May 7, 1855.

House bill No. 136, an act directing the manner of making election returns in the borough of Pittston, in the county of Luzerne.

House bill No. 137, an act to enable the city of Erie to sell her stock in the Sunbury and Erie railroad company.

Amended by the adoption of a substitute offered by Mr. COCHRAN (Erie).

House bill No. 138, an act to divide the borough of Tinsville, in the county of Crawford, into two wards, and for other purposes.

House bill No. 140, an act to authorize the school directors of the borough of Downingtown to sell and convey certain real estate.

House bill No. 141, an act to change the time of closing the polls at the general and township elections in the county of Bradford.

House bill No. 142, an act to change the place of holding the general and special elections in Schuylkill township, Lycoming county.

House bill No. 144, a further supplement to an act incorporating the city of Philadelphia.

House bill No. 146, an act to incorporate the Johnstown hall and market company.

House bill No. 147, an act to incorporate the Chapman slate company.

House bill No. 148, an act to incorporate the Hamilton park association of the Twenty-fourth ward, Philadelphia.

House bill No. 149, a supplement to an act to incorporate the Lockawanna and Bloomsburg railroad company, approved April 5, 1862.

House bill No. 150, an act requiring the Quakake railroad company to fence their road in Schuylkill county.

Amended by Mr. LONG, by adding in the sixth line, after the word "county," the words "and that part of said road lying in the county of Carbon."

House bill No. 152, an act for the relief of Henry Welsh, a soldier in the State service.

House bill No. 153, an act to pay Lewis Culp, of Dauphin county, a pension.

House bill No. 159, an act organizing a company to construct a turnpike road from the Oxford plank road, over the road known as the Milltown road, to Milltown, in the Twenty-third ward, in the city of Philadelphia.

House bill No. 162, an act to incorporate the Germantown and Chestnut Hill turnpike company.

Amended by Mr. SMITH, (Philadelphia), by striking out, in the sixth line of the third section, the words "Tulphocken," and substituting "Manheim."

Also, by adding, after the words "Manheim street," the words, "or such other part of Green street as the directors may deem advisable."

Also, in the first line to strike out the word "shall," and insert "may."

House bill No. 163, an act to incorporate the Highland woolen manufacturing company.

House bill No. 164, an act for the relief of Daniel Shanor, of Butler county.

House bill No. 166, an act supplementary to an act incorporating the borough of South Pittsburg, Allegheny county.

House bill No. 167, an act to incorporate the Frankford and Falls of Schuylkill turnpike company.

Amended by Mr. SMITH, (Philadelphia), in section first, by inserting the names of certain additional incorporators.

Also, in twelfth line, by adding, after the word "Bridenburg," the following: "and to Tacony."

Also, in fifth section, by inserting in second line, between the words "or" and "others," the word "by," and by adding, after the word "others," the words, "without the consent of said company."

House bill No. 171, a supplement to an act to incorporate the Wischickon and Plymouth railroad company.

House bill No. 172, a further supplement to an act incorporating the Penn. Mutual life insurance company.

House bill No. 95, an act to regulate the compensation of county commissioners, poor directors, auditors, jurymen and witnesses, in the county of Bucks.

The following bills were objected off the calendar:

By Mr. MILLER.

House bill No. 130, an act to vacate Nash street, in the Twenty-second ward, in the city of Philadelphia.

By Mr. GRABER.

House bill No. 143, an act to incorporate the Tuscarora water company.

By Mr. BOYER.

House bill No. 145, an act to incorporate the Plymouth iron company.

By Mr. ALLEMAN.

House bill No. 160, an act to authorize David Small to assign and pay over certain trust property.

By Mr. SHARPE.

House bill No. 181, an act for the relief of Alexander Dale, of Franklin county.

By Mr. LABAR.

House bill No. 169, a supplement to an act authorizing the Lehigh coal and navigation company to extend their railroad from White Haven to Mauch Chunk, approved March 4, 1862.

By Mr. BILLINGFELT.

House bill No. 170, a further supplement to an act incorporating the Reading and Columbia railroad company.

The following bill was, on motion of Mr. HOPKINS, re-committed to Committee on Claims:

House bill No. 114, an act for the relief of William Hinrod.

On motion of Mr. COCHRAN, (Philadelphia), the hour of adjournment was extended until the private calendar should be disposed of.

On motion of Mr. COCHRAN, (Philadelphia), the case proceeded to the further consideration of bills on the private calendar.

The following bills were read a second time, and disposed of as stated:

House bill No. 22, an act to attach Erie county to the Western district of the Supreme Court.

Passed finally.

House bill No. 126, an act authorizing the commissioners of Perry county to appropriate a certain sum of money for making a mountain road in said county.

Passed finally.

House bill No. 127, an act to increase the compensation of the county commissioners of Franklin county.

Passed finally.

House bill No. 128, an act to increase the compensation of the directors of the poor and house of employment in the county of Franklin.

Passed finally.

House bill No. 129, a supplement to the act of the 8th day of May, A. D. 1857, authorizing the erection of a poor house by the township of Jenkins, the borough of Pittston and the township of Pittston in the county of Luzerne.

Passed finally.

House bill No. 130, a supplement to the act of the 8th day of May, A. D. 1857, authorizing the erection of a poor house by the township of Jenkins, the borough of Pittston and the township of Pittston in the county of Luzerne.

Passed finally.

House bill No. 131, an act to amend the act of the 8th day of May, A. D. 1857, authorizing the erection of a poor house by the township of Jenkins, the borough of Pittston and the township of Pittston in the county of Luzerne.

Passed finally.

House bill No. 132, an act relating to the collecting of district and township debts in Luzerne county.

Passed finally.

House bill No. 134, an act to compel the Erie canal company to construct and keep in repair the bridges made necessary by the construction of their canal.

Mr. REX. I move that the bill be postponed for the present.

Mr. BURGIN. I move its indefinite postponement.

Mr. COCHRAN (Erie). Mr. Speaker, as this is a bill in which my constituents are interested, and in order that this House may act understandingly in this matter, I propose to give the history of this canal and company.

The Erie canal connects Lake Erie with the Ohio river at a point twenty miles below Pittsburgh. Its length, including the French Creek feeder, is one hundred and sixty-eight miles. This work was commenced and nearly finished by the State of Pennsylvania, but the great financial crisis, which followed in the wake of the speculation of 1838, and which many of us remember with sorrow, compelled the State to suspend the further prosecution of the work, and thus it remained for some time. At the session of the Legislature of 1843 the Erie canal company was incorporated, and Gen. Chas. M. Reed and others were appointed commissioners to receive subscriptions to the capital stock, which was fixed at ten thousand shares of fifty dollars each. When ten thousand shares were paid the Governor was to issue letters patent, &c.

The act also gave the State the right to resume possession upon certain conditions. Having succeeded thus far, they opened their books and set about obtaining subscriptions to the capital stock. They soon got the ten thousand shares subscribed, which, according to their lease of life, was a prerequisite of their existence. Only two shares, however, of the one thousand subscribed were paid for at the time; nor have they ever since been paid for, in good faith. And here the subscription to the stock of the company ended, it having been discovered by the acuteness of financial vision that there were serious objections to leasing the balance of the stock, inasmuch as stock was liable to taxation, and it never would suit their purpose to submit to the payment of taxes, as it would not only diminish their profits, but ruin their reputation. The directors, for just what the gentleman pleased to offer. And the bonds were bought by the directors and their agents as low as twenty cents on the dollar. Thus the creditors at home were silenced. But the State had a right to resume the work, by the payment to the company of the amount of their outlay, &c., &c.—which claim must be got rid of before the company could feel at ease in their possessions. So the old scheme of special legislation was again resorted to, and was again successful. An act was passed repealing the right of resumption, and thus they had now "none to molest or make them afraid." They had nothing to do but to congratulate each other on the success of their sharp practice, which is but a euphemism for cheating.

The bonds bought up for twenty cents on the dollar, with the money which was due the bondholders in interest, and the right of resumption belonging to the Commonwealth, were thus wiped out by legislation. The company now began to give evidences of thrift which had before been carefully concealed. They now had plenty of money to pay a full rate of interest on all their bonds, including those issued to the directors for the purpose heretofore mentioned, besides having money to lend.

But there was one other thing I omitted to mention, which was peculiarly annoying to the company, and that was, the people contended that as the company had received this magnificent donation from the State—some hundred and sixty-eight miles of canal, nine-tenths of which was already built, costing bridges and all, five millions of money—the company should keep the bridges in repair, and re-build them when necessary, as the State would have done had it retained the work. Now this, to an outsider, would look like a fair proposition that the company, having all the benefit of this large outlay of the people's money, certainly should assume the burden of keeping up the bridges. But the Financial Committee of the company was again called together, and they reported a plan to rid the company of the undignified and humiliating task of building and repairing bridges for the accommodation of the peasantry. The report of the committee was adopted. It was simply this: A sham suit was to be brought, in which the company should be plaintiff and defendant—though not of record; they should make up a case stated and get the

decision of the Supreme Court. All of which was done, and the court decided that in the absence of any law declaring who should keep up the bridges, the company could not be compelled to do it; but also said the Legislature might decide who should keep them up—whether the counties or townships through which the canal passes, or the canal company should do so.

Knowing that justice and all the equities of the case would require the company to build and keep in repair the bridges made necessary by their improvements, we come to this Legislature and ask you to pass a law compelling this monster corporation to do an act of justice. Now, why should you refuse to grant our request? What claim has this company for further protection at the expense of the people of this State, by which it secured its life of ease, and this was followed by another, to cheat the State out of its taxes; and this by still another—to cheat their creditors out of the bonds and ten years' accrued interest. Its whole life has been one of continuous fraud and oppression. During the most of its existence it has had its representatives in this hall asking for additional legislation; and all the people whose money has built their canal, and upon whose life-blood the company has fattened, implore you to compel this monster beast to cease goading them; and will you refuse to grant their petition or listen to their appeal?

This corporation asks everything! Like the "daughters of the horse leech," it continually cries "Give, give," but is never willing to give anything in return. It asks us to legislate for it, and in effect permit it to impose a tax to levy an annual tax through all coming time on this already outraged community—sufficient in amount to build and keep in repair all the public bridges on one hundred and sixty-eight miles of canal—thereby offering a premium for idleness. This Legislature is the only power on earth that can curb this company. You gave it birth and wealth, and we are not envious. Say to this company, by your action on this bill, that we shall carry their burdens no longer, and we are content. If you refuse our request, we are left without hope, for we have no charter with which to evade law and escape justice, and we must submit.

Mr. REX. The gentleman from Erie has some little pick at this company, and this bill would make the calling of the company to do what they are not required to do by law. It appears that the question at issue has been tried in the Supreme Court, and that court has decided in favor of this canal company.

Mr. COCHRAN (Erie). The gentleman is certainly mistaken; I did not say so.

Mr. REX. He is not correct in the Legislature, and it is not an act of Assembly to compel this company to do anything which they are not required to do.

Mr. COCHRAN (Erie). I submit to the consideration of this House that the company should do whatever the State would have done had the possession of the canal remained in the hands of the State. In other cases, the State build the bridges and kept them in repair, and there is no reason why we should make flesh of one and fish of another. I argue that the company is bound in good faith to do just what the State would have done—that is to keep up the bridges. If I would ask for justice in this case, I would ask that all the money should be refunded; but we only ask a small abatement of justice, and we hope the gentlemen will not refuse our request.

Mr. LABAR. Mr. Speaker, I merely wish to say a few words in regard to this bill. I believe the gentleman from Erie is correct in his views in regard to the said company keeping these bridges in repair across this canal. I do not see why this canal company should be an exception to the general rule. We find from Erie is correct. The question is whether the State, they did so with all the privileges and responsibilities, and that is the case with that company.

As this House is aware, the necessity for said bridges was caused by the canals, whether built by the State, or commenced by the State and finished by the companies; and these bridges having been built by the State, I presume it is proper that they should be continued by the companies.

If it was, as I look upon it, a mere oversight in the law not stating that the private bridges should be maintained, as well as the public bridges, it does seem to me to be very unjust for any county or any community to build or maintain bridges across any canal merely from the fact that it is a canal going through said county which makes it necessary to have such bridges. Most assuredly the gentleman from Erie is correct. The question is whether this company shall act in good faith, or whether they shall throw the maintenance of these bridges upon the different counties through which they pass.

Mr. SHARPE. Mr. Speaker I was originally opposed to this bill, because I believed it to be unconstitutional.

There has been something said by the gentleman from Erie in regard to the decision of the Supreme Court upon the question. I would state for the information of the House, my own opinion as to the points which that decision touches in this case.

By referring to the charter of this company, you will find that it was obliged to build farm bridges across its canal where the same became necessary. That is the only duty which the charter imposes upon this company in regard to the building of bridges.

Now, Mr. Speaker, you well know, as well as every attorney upon this floor, that in the absence of express legislation upon this subject, it is made the duty either of the township or of the county officers to construct bridges across canals or other streams, where public highways cross such streams or such canals. Now, this act before the House proposes to impose upon this canal company an additional duty to that which is imposed by its charter, namely: The construction of bridges across this canal where the public highways pass over it. You will observe, Mr. Speaker, that this is entirely a new and additional obligation imposed upon this company beyond the terms of its charter.

Just at this point the Constitutional objection arises: Can the Legislature, after a charter has been granted to it which were not contemplated by the charter? A charter from the State to a private corporation is a contract; and you also know very well, sir, that all legislation which imposes an obligation of a contract, under the Constitution of the United States, and under the Constitution of Pennsylvania, is declared to be unconstitutional and void.

Now, it is true that a controversy between this company and the borough authorities of

Meadeville, (I believe it was) reached the Supreme Court of Pennsylvania, and the constitutional question was left open. The Supreme Court of Pennsylvania did not decide, as the gentleman from Erie has stated, that we had right here in the Legislature to impose upon this company the additional duty of building bridges across the public highways where the same passed over the canal. That question was left open, untouched by that decision of the Supreme Court.

We now come back to the decision of that question here for the first time. It appears that there was a temporary act passed by the Legislature of Pennsylvania, which imposed this duty upon this canal company. If I remember correctly, that obligation was imposed in an appropriation bill. You know, Mr. Speaker, that that was a very common method—passing local legislation by attaching it to the appropriation bills that were before the Legislature, thus slipping through the Legislature on the shoulders of the appropriation bill. This Legislature held that that part of the bill which imposed this duty upon the company of building the public bridges had expired of its own limitation, that there was, therefore, no legislation upon the subject; and therefore the borough authorities and the county authorities were obliged to fall back upon the principle which imposes that duty upon the counties or boroughs, and not upon chartered companies, unless it is provided in the charter of said companies.

I was informed that the company has withdrawn its objection to this bill, that it has consented to waive all opposition to it. I therefore shall vote in favor of the passage of the bill; but I deem it proper that the House should understand this question, and that my reason should be put upon the record for voting for a bill which I believe to be unconstitutional. If the company has withheld its opposition to this bill on the ground of its unconstitutionality, I do not believe that we should oppose it when the company is willing to accept the additional burden which it imposes upon them.

Mr. BURGIN. I have no disposition whatever to detain this House with any lengthy remarks, as the district to be affected by this bill is more directly represented by my colleague than by myself. But I do think the canal company should be required to build these bridges. I have no quarrel whatever with the company, but inasmuch as the State was in the habit of building all the necessary bridges across this canal and keeping them in repair, I think that this company, which has taken the place of the State, should be required to do the very same thing. I believe that the House is ready to take the view of the subject. For that reason I withdraw my motion to postpone indefinitely.

Mr. MAURITZ. Do I understand my friend from Erie (Mr. COCHRAN) to say that the company had no objection to this bill?

Mr. COCHRAN (Erie). Yes, sir.

Mr. MAURITZ. Without that understanding, I would vote against the bill. There are difficulties in the way of the passage of the bill, and unless the company desire its passage, I will vote against it.

Mr. REX moved to recommit the bill to the Committee on the Judiciary (local).

The motion was not agreed to.

The bill then passed finally.

House bill No. 135, an act to repeal certain portions of the ninth section of an act to provide for the regulation and inspection of buildings in the city of Philadelphia, approved May 7, 1855.

Passed finally.

House bill No. 136, an act directing the manner of making election returns in the borough of Pittston, in the county of Luzerne.

Passed finally.

House bill No. 137, an act to enable the city of Erie to sell her stock in the Sunbury and Erie railroad company.

On motion of Mr. COCHRAN (Erie), the title was amended so as to comport with the language of the substitute adopted.

Mr. REX moved to re-commit the bill to the Committee on the Judiciary (local).

On the question,

The yeas and nays were required by Mr. REX and Mr. KLINE, and were as follow, viz:

YEA—Messrs. Alexander, (Centre), Alexander, (Clarion), Benton, Ellis, Gilbert, Graber, Hakes, Jackson, Johnson, Kerns, (Schuylkill), Kline, Long, M'Manus, Marshall, Messelman, Nelson, Patton, Quigley, Bex, Spangler and Webb, 21.

NAY—Messrs. Alleman, Balsbach, Barnett, Bigham, Billingfelt, Bowman, (Lancaster), Burgwin, Cochrane, (Erie), Cochrane, (Philadelphia), Denniston, Foster, Glass, Guernsey, Haslett, Henry, Herron, Huston, Kaiser, Kelley, Labar, Lee, M'Murtrie, Mayer, Miller, Meyers, Negley, O'Hara, Orwig, Panoocat, Pershing, Price, Purdy, Reed, Reif, Rice, Riddle, Robinson, Shaepe, Shuman, Smith, (Lancaster), Smith, (Philadelphia), Suplein, Watt, Weaver, Welch, White, Windle and Smith, (Chester), Speaker pro tem., 48.

So the question was determined in the negative.

House bill No. 138, an act to divide the borough of Tinsville, in the county of Crawford, into two wards, and for other purposes.

Passed finally.

House bill No. 140, an act to authorize the school directors of the borough of Downingtown to sell and convey certain real estate.

Passed finally.

House bill No. 141, an act to change the time of closing the polls at the general and township elections in the county of Bradford.

Passed finally.

House bill No. 142, an act to change the place of holding the general and special elections in Schuylkill township, Lycoming county.

Passed finally.

House bill No. 144, a further supplement to an act incorporating the city of Philadelphia.

Passed finally.